

6/5/09

My name is Barb Savagian, and I am the President of the Wisconsin Health Information Management Association (WHIMA). I also work at Mercy Medical Center in Oshkosh, WI, as the Manager of Health Information Services. Since 2003, I have closely followed the debate over medical record copy fees. I have carefully reviewed Motion #671, which was presented to the Joint Finance Committee by Sen. John Lehman and Rep. Cory Mason in the early morning hours of 5/28/09, and passed by a very narrow margin (9-7).

***I strongly oppose Motion #671 and believe it must be removed from the budget or revised based on current cost analysis data from health care facilities and copy services. The following supports my belief:***

- 1. Motion 671 proposes fees that will not cover costs, and will bring about cost shifting, affecting those who do not request records.**
  - in 2003 and 2006 cost analysis data was submitted to support that the minimal fees proposed do not cover provider costs.
  - it will cost health care facilities and copy services millions, which will eventually be passed on to all patients through increases in health care costs.
  - copy fee rate comparisons to those in surrounding states show that rates proposed in Motion 671 are significantly lower.
- 2. Motion 671 is inconsistent with other state and federal laws -- 45 CFR 482.24 (federal Conditions of Participation), HFS 124 (state medical record requirements), Joint Commission standards for completion of medical records, and HIPAA requirements.**
  - these regulatory entities allow 30 days for completion of a record by providers; incomplete records cannot prudently be released.
  - HIPAA allows 30 days for response to a request.
  - the proposed motion imposes fines if requests are not completed in 21 days; this incongruent with the aforementioned regulations and standards.
- 3. Motion 671, as written, contains misleading language, that seemingly was not explained to the Joint Finance Committee.**
  - it removes right to charge for processing a request for medical record copies by changing the language from "copies requested by the patient or the patient's personal representative", to "copies requested by the patient or person authorized by the patient"....."with an informed consent".
  - in the language of the motion, anyone getting copies will be authorized by the patient because they are ALL required to have an informed consent, so no processing fee could ever be charged.
  - certified copy fees are deleted by the same language.
  - these are all costs trial lawyers are currently responsible for.

Please consider this information when reviewing the proposed budget, and vote to remove or revise Motion 671 in accordance with the above. The Wisconsin Hospital Association (WHA) also supports removing or revising Motion 671. I would be happy to talk with you about this further; "reply" to my e-mail, or call (920) 223-0194.

Thank you!

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**EXHIBIT  
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DATE

Governor James Doyle

We are writing to you as the leaders of the Wisconsin Health Information Management Association (WHIMA). WHIMA is a component state association for the American Health Information Management Association, which represents over 50,000 health information professionals working in all facets of industry. WHIMA members have served and are serving on your e-Health Care Quality and Patient Safety Board, as well as Boards for a RHIO in Southeast Wisconsin, and the HIPAA Collaborative of Wisconsin. Members worked with the State Department of Justice on flow of information for law enforcement to meet HIPAA and Wisconsin State Law.

We urge you to implement one of these actions to the proposed Wisconsin budget:

**1. VETO ALL COPY FEE, DEADLINES AND MEDICAL RECORD ACCESS PROVISIONS THAT WERE INCLUDED IN THE BUDGET UNDER MOTION #671.**

Or

**2. VETO THE PROVISIONS THAT PROHIBIT HEALTH CARE PROVIDERS FROM RECOUPING COSTS OF ELECTRONIC COPIES AND THE WISCONSIN-ONLY DEADLINES THAT CONTRADICT FEDERAL LAW (HIPAA).**

I have carefully reviewed Motion #671, which was included by the Joint Finance Committee in the early morning hours of 5/28/09 without input from industry experts, such as WHIMA, or informing the experts of the content of the motion. This action alone circumvents the required and deliberative administrative process rule for setting medical record copy fees.

This provision has no fiduciary impact on the state of Wisconsin budget.

**It only serves to cost shift an estimated \$30 million/year in to healthcare in Wisconsin, creating a barrier to investment in electronic medical records, contrary to national and state initiatives supported by President Obama and yourself.**

In addition to proposing fees that are ~80% lower than in neighboring states, and do not cover the cost of the services requested, proposed s.146.83(lk) **would require health care providers using an EMR to provide copies free of charge.** This provision is unrealistic; there is cost to providing electronic copies. **Compiling an electronic record involves highly skilled professionals of whom, who many are members of WHIMA. These professionals and must assure that the request is complete, accurate and in compliance with state and federal laws.** Industry experts have provided this information in the past, only to have it ignored.

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If included in the budget, provisions of Motion #671 will affect the state budget in the future. More Wisconsin residents will fall onto the Badger Care/Medicaid roles, as the \$30 million of shifted costs will eventually transfer ~~go back~~ to all patients. Or, patients will have higher out-of-pocket expenses that will impede payment of utilities, mortgages, or their ability to put children through school or put food on the table. We are in economically depressed times; trial attorneys and insurance companies are not the ones who need more money now. These are the groups ~~are~~ who will profit from these changes in the medical record copy fee language. Wisconsin would be better served if these costs ~~stayed where they belong and~~ are charged to those who actually request the medical record copies.

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Prohibiting health care providers from recouping these costs by charging fees for electronic copies will force cost shifting, increase health care costs by millions in Wisconsin, and result in a disincentive for health care providers to rapidly adopt EMR systems.

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